

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
_____)

MDL No. 2419
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:)

Suits Naming Box Hill Surgery Center, LLC)
_____)

**MOTION FOR SUGGESTION OF REMAND OR TRANSFER
OF BOX HILL CASES TO MARYLAND AND TO ESTABLISH VENUE IN
MARYLAND VIA §157(B)(5) OR §1404(A)**

Defendants Box Hill Surgery Center, LLC, Ritu T. Bhambhani, M.D., and Ritu T. Bhambhani, M.D., LLC (collectively, the “Defendants” or “Box Hill Defendants”) file this Motion for Suggestion of Remand of Box Hill Cases to Maryland and to Establish Venue in Maryland via §157(b)(5) or §1404(a):

1. The Defendant is health care providers in Maryland named as a Defendant (with her practice) by 8 patient Plaintiffs in lawsuits related to this outbreak. Lawsuits filed by or on behalf of 8 of those patient Plaintiffs (hereinafter the “MDL Box Hill cases”) have been transferred to Massachusetts pursuant to 28 USC §1407 and are pending in this MDL. The scheduling order in place at Dkt. 2652 (dedicated to both the Box Hill cases and those cases filed against the Premier Defendants from New Jersey) sets deadlines to take the Box Hill cases through common expert discovery.

2. The Court's Order at Dkt. 2928 begins the process of concluding the MDL for dozens of cases and remanding them to their home districts. The Order carves out three sets of cases, the cases from New Jersey (Premier cases), the cases from Maryland (Box Hill cases), and the cases from Tennessee (SSC cases). The Order allows the New Jersey and Maryland cases to exit the MDL with the input of counsel and the Court's approval, which is scheduled to occur for the New Jersey cases.

3. After the conclusion of common expert discovery, the Box Hill cases will be proper for remand to Maryland under §1407.

4. Following remand to Maryland, the Court should either (1) not act on venue so as to allow the cases to proceed to trial in Maryland, (2) set venue in Maryland pursuant to 28 USC §157(b)(5), or (3) set venue pursuant §157(b)(5) in Massachusetts and then transfer the cases to Maryland via 28 USC §1404. All three mechanisms result in the most logical, convenient, and cost-efficient venue for these cases: Maryland.

5. The Box Hill Defendants request an order recommending to the JPML that the Box Hill cases are proper for remand after the conclusion of common expert discovery and establishing (via any of the mechanisms referenced in paragraph 4 above) venue in Maryland for trial.

6. The Box Hill Defendants submit an accompanying memorandum of law that fully explains the reasons the Court should grant this requested relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Gregory K. Kirby, hereby certify that a copy of the foregoing, filed through the CM/ECF system, will be accessible to those attorneys who are registered with the Court's electronic filing system and Notice of Electronic filing (NEF), including the attorneys representing the plaintiffs in the individual cases, and will be sent to these parties by operation of the CM/ECF system and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 22nd day of August, 2016.

Dated: August 22, 2016

/s/ Gregory K. Kirby
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